



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

HD:hd  
Docket No: 06976-98  
27 October 1999

CE [REDACTED] EN

Dear Command [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 21 October 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 23 June 1999, a copy of which is attached. The Board also considered your letter dated 9 August 1999 with enclosures.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion, except they noted the applicable authority was the Naval Military Personnel Manual, Article 3410100. They found that neither the dropping of charges against you, nor your having been retained by a board of inquiry which found you did not commit misconduct on 19 July 1997, justified removing the contested civil action report. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

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Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure



DEPARTMENT OF THE NAVY  
BUREAU OF NAVAL PERSONNEL  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000

6976-98

IN REPLY REFER TO  
1611  
Ser 834C/983  
23 Jun 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: LCDR [REDACTED] US [REDACTED]

Ref: (a) BCNR memo 5420 Pers-00ZCB of 8 Jun 99  
(b) CO, VAQ 135 ltr 1611 Ser 00/277 of 10 Dec 97  
(c) MILPERSMAN 1611-010  
(d) Manual for Courts-Martial Appendix 12

Encl: (1) BCNR file 06976-98 w/Service Record

1. Reference (a) requested comments and recommendations concerning removal of reference (b), [REDACTED] civil conviction for Boating Under the Influence (BUI) and Reckless Endangerment. Enclosure (1) is returned as a matter under the purview of BCNR.

2. On 19 July 1997 [REDACTED] was the operator of a speedboat that struck another speedboat, killing two women. [REDACTED] was charged with BUI and seven counts of Reckless Endangerment. Contrary to what might be suggested, [REDACTED] was neither found innocent nor acquitted in the matter. Through a diversion agreement, [REDACTED] was required to pay \$54.00 for a unitary assessment, \$4,946.00 to a local Diversionary Fund (in lieu of a fine), and \$5,000.00 to a Search and Rescue fund.

3. Reference (c) requires reporting of any offense which, if punished under the UCMJ, carries a maximum punishment of confinement of one year or more or a punitive discharge or dismissal. Clearly, [REDACTED] could have been subject to charges of violations of the UCMJ, Article 111, drunken or impaired operation of a vehicle, Article 119, manslaughter, and/or Article 133, conduct unbecoming an officer. Per reference (d), all of these articles carry punitive measures that meet the reporting standard of reference (c). Accordingly, the filing of this incident in [REDACTED]'s record was done in accordance with reference (c) and was consistent with the handling of similar cases. Do not recommend removal of the matter from [REDACTED] record.

[REDACTED]  
[REDACTED] Naval Reserve  
[REDACTED] Director, Personnel Performance &  
Security Division (PERS-83)  
Acting